

Order

Michigan Supreme Court
Lansing, Michigan

October 23, 2009

Marilyn Kelly,
Chief Justice

139114 & (43)(44)

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

In re ALEXANDER MITCHELL, NATHAN
MITCHELL, and NICHOLAS MITCHELL,
Minors.

DEPARTMENT OF HUMAN SERVICES,
Petitioner-Appellee,

v

SC: 139114
COA: 286895
Clinton CC Family Division:
06-019136-NA

WILLIAM MITCHELL,
Respondent-Appellant.

By order of July 28, 2009, the prosecuting attorney was directed to answer the application for leave to appeal the March 24, 2009 judgment of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals for the reasons stated in the Court of Appeals dissenting opinion and because the trial court committed plain error, *People v Carines*, 460 Mich 750, 763 (1999), in failing to timely appoint counsel in violation of MCL 712A.17c(4) and (5), MCR 3.915(B)(1), MCR 3.965(B)(5), and MCR 3.974(B)(3)(a)(i), and in failing to advise the respondent that his plea could later be used in a proceeding to terminate his parental rights in violation of MCR 3.917(B)(4). Accordingly, we REMAND this case to the Clinton Circuit Court Family Division for further proceedings not inconsistent with this order. The motion to file brief amicus curiae is GRANTED.

We do not retain jurisdiction.



s1020

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 23, 2009

Corbin R. Davis

Clerk